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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 13 1992

Federal Communications Commission
Office of the Secretary

In the Matters of

Petition for Rule Making of the
Utilities Telecommunications
Council for Amendment of Parts 2,
21, and 94 of the Commission's
Rules to Accommodate Private
Microwave Systems in the 1.71-1.85
GHz Band and in Bands Above 3 GHz

RM- _____

Redevelopment of Spectrum to
Encourage Innovation in the Use of
New Telecommunications Technologies

ET Docket 92-9

TO: The Commission

COMMENTS OF AMERICAN PERSONAL COMMUNICATIONS

American Personal Communications ("APC"),^{1/} pursuant to Section 1.405 of the Commission's Rules, 47 C.F.R. § 1.405 (1991), hereby files its initial procedural comments on the Petition for Rule Making (the "Petition") of Utilities Telecommunications Council ("UTC") filed March 31, 1992 and designated by UTC as an ex parte comment in Engineering and Technology Docket 92-9 concerning spectrum for new telecommunications technologies.^{2/} APC suggests that the

^{1/} American PCS, L.P., d/b/a American Personal Communications.

^{2/} APC makes these procedural suggestions in these early-filed comments in order to rationalize and facilitate the rule making process. APC will file separate comments on the merits of Docket 92-9 at the appropriate time. For example, APC does not agree that frequencies above 2 GHz are not suitable for most private microwave operations. If any adjustments need to be made to accommodate any current 2 GHz

Commission promptly announce that it is incorporating UTC's Petition into Docket 92-9 and invite comments and reply comments on the Petition in that proceeding (now targeted for June 5 and July 6, 1992, respectively). This schedule will permit commenters to address fully and completely the proposals in the Petition without the need for any further delay in Docket 92-9.^{3/}

APC has petitioned the Commission to allocate spectrum in the 1.85-1.99 GHz band for Personal Communications Services ("PCS").^{4/} APC filed the first experimental PCS application in the United States and was the first experimental applicant to have its application granted by the Commission.^{5/} APC has deployed a commercial-quality PCS system serving almost 200 subscribers in the Washington, D.C./Baltimore, Maryland area and has worked closely with

licensees, they can be readily accomplished.

^{3/} The Commission already has granted a request made by UTC and others for a 45-day extension of time in the comment period for Docket 92-9.

^{4/} See Petition of American Personal Communications for Amendment of the Commission's Rules to Allocate Spectrum for Provision of Personal Communications Services and PCS Microwave and to Create a New Subpart of the Commission's Rules to Authorize PCS as a New Service, filed May 3, 1991 (the "APC Petition").

^{5/} Station KF2XAW, FCC File No. 1321-EX-PL-90 (authorization to test PCS within the 900-901, 930-931, and 940-941 MHz bands), granted by the Commission on February 22, 1990. The Commission subsequently granted APC a second experimental authorization, Station KC2XDM (FCC File No. 1447-EX-PL-90), to test PCS within the 1850-1990 MHz band. The two experimental authorizations have been consolidated under the latter file number.

electric utilities in that area to ensure that no interference to those utilities is caused by APC's operations. APC also has performed an authoritative research project demonstrating that sufficient vacant spectrum currently is available for inauguration of PCS in the top 11 markets in the United States. See APC, Frequency Agile Sharing Technology Report on Spectrum Sharing (filed July 1991) (the "FAST Report").^{6/}

UTC's Petition asks the Commission to modify its rules for the 3.7-4.2, 5.925-6.425, and 10.7-11.7 GHz bands to ensure that those bands are adequate for routine licensing of Part 94 microwave licensees (i.e., those that may be asked to vacate the 2 GHz band and new licensees). APC appreciates the efforts of UTC to anticipate the technical issues that may arise out of the relocation of 2 GHz incumbent microwave users to other frequency bands and for new microwave applicants. APC also supports UTC's suggestion, which the Commission also made in Paragraph 11 of the Docket 92-9 Notice, that the Commission and NTIA should explore the concept of sharing the 1.71-1.85 GHz band with federal governmental users.^{7/} The

^{6/} APC requests that the FAST Report, which has been filed in connection with APC's experimental authorization, its Petition for Rule Making, and General Docket 90-314, be incorporated by reference in this docket as well.

^{7/} APC disagrees, however, with UTC's suggestion that a new advisory committee should be formed to deal with these issues. Formation of a new advisory committee would be duplicative of existing industry efforts. The TR-14 Committee of the Telecommunications Industry Association is the proper forum for resolution of the matters that UTC wishes to address in its proposed advisory committee.

technical issues should be resolved in Docket 92-9 and in any event by the time PCS operators are authorized. The project of exploring shared federal/private use of the 1.71-1.85 GHz band also should be expedited.

APC wishes to reiterate, however, that little relocation of incumbent microwave users will be necessary to accommodate the introduction of PCS in the 1.85-1.99 GHz band. In the FAST Report, APC demonstrated that at least 50 MHz of vacant spectrum is available in this band for inauguration of PCS in the top 11 markets in the United States (and that even more vacant spectrum in this band is available in smaller markets as well).^{8/} APC has implemented the FAST concept experimentally in the form of a new FAST technology that selects frequencies and channels for use within the assigned bandwidth to prevent interference and maximize service quality and spectrum-use efficiency. In the field testing of FAST that is now being finalized, APC is demonstrating that FAST is a reliable and effective methodology for implementing this

^{8/} In Seattle, Washington, for example, at least 50 MHz of spectrum is vacant at 100 percent of locations and from 100-140 MHz of spectrum is vacant in 89.6 of all locations. In Columbia, South Carolina, 50 MHz of spectrum is vacant in 99.7 percent of locations and from 100-140 MHz of spectrum is vacant in 94.2 percent of all locations. In Charleston, South Carolina, 50 MHz of spectrum is vacant in 98.8 percent of locations and from 100-140 MHz of spectrum is vacant in 81.9 percent of locations. In Honolulu, Hawaii, 50 MHz of spectrum is vacant in 100 percent of locations and from 100-140 MHz of spectrum is vacant in 94.6 percent of all locations.

most promising new service without interfering with existing microwave users.^{9/}

APC also has urged, consistent with Paragraph 26 of the Notice, that any relocation of incumbent microwave users occur through a system of voluntary negotiations, with relocation only to suitable and available frequencies and only with all reasonable costs of relocation being borne by PCS licensees.^{10/} We reemphasize APC's convictions in this regard -- that few incumbents will be required to move, and that those that do move voluntarily will do so at the cost of PCS licensees -- because while we are sympathetic with UTC's desire to clarify certain technical issues in the context of Docket 92-9, we believe UTC's characterization of the issue is a vast overstatement, at least in terms of PCS's spectrum needs and particularly in light of APC's FAST technology.

The issues raised by the UTC Petition are part and parcel of Docket 92-9 and should be addressed in that docket by incorporating UTC's Petition in the record of Docket 92-9. As UTC acknowledges, its concerns in this regard arise entirely from the Notice of Proposed Rule Making in Docket 92-9 and can be addressed effectively by comment in that docket.

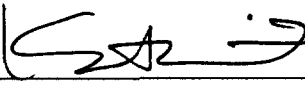
^{9/} A detailed demonstration of the technical feasibility of the FAST system of spectrum sharing will be filed in APC's April 28, 1992 progress report on its experimental authorization.

^{10/} See APC Petition at 15-17; Statement of J. Barclay Jones, Vice President for Engineering, APC, before the FCC En Banc Hearing, December 5, 1991; Response of APC to Follow-Up Questions Posed by Hon. Alfred C. Sikes, January 15, 1992.

See Petition at 2-3, 6 n.2. The parties that comment in Docket 92-9, accordingly, should be offered an opportunity to comment on UTC's proposals. The most efficient manner to accomplish this result is to accept UTC's Petition as early-filed comments on Docket 92-9 and promptly issue a public notice requesting interested parties to comment on UTC's proposals when comments are filed in Docket 92-9 on June 5, 1992.

Respectfully submitted,

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April 13, 1992

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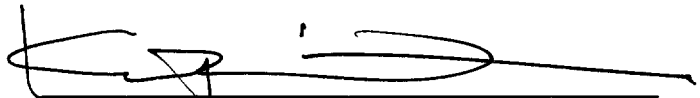
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